

[For definition of “tribal government” as used in section 234(c) of Pub. L. 111-211, set out above, see section 203(a) of Pub. L. 111-211, set out as a note under section 2801 of this title.]

PURPOSE OF 1986 AMENDMENT

Section 4217 of Pub. L. 99-570 provided in part that amendment of par. (7) of this section was to “enhance the ability of tribal governments to prevent and penalize the traffic of illegal narcotics on Indian reservations”.

§ 1303. Habeas corpus

The privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his detention by order of an Indian tribe.

(Pub. L. 90-284, title II, §203, Apr. 11, 1968, 82 Stat. 78.)

SUBCHAPTER II—MODEL CODE GOVERNING COURTS OF INDIAN OFFENSES

§ 1311. Model code

The Secretary of the Interior is authorized and directed to recommend to the Congress, on or before July 1, 1968, a model code to govern the administration of justice by courts of Indian offenses on Indian reservations. Such code shall include provisions which will (1) assure that any individual being tried for an offense by a court of Indian offenses shall have the same rights, privileges, and immunities under the United States Constitution as would be guaranteed any citizen of the United States being tried in a Federal court for any similar offense, (2) assure that any individual being tried for an offense by a court of Indian offenses will be advised and made aware of his rights under the United States Constitution, and under any tribal constitution applicable to such individual, (3) establish proper qualifications for the office of judge of the court of Indian offenses, and (4) provide for the establishing of educational classes for the training of judges of courts of Indian offenses. In carrying out the provisions of this subchapter, the Secretary of the Interior shall consult with the Indians, Indian tribes, and interested agencies of the United States.

(Pub. L. 90-284, title III, §301, Apr. 11, 1968, 82 Stat. 78.)

§ 1312. Authorization of appropriations

There is hereby authorized to be appropriated such sum as may be necessary to carry out the provisions of this subchapter.

(Pub. L. 90-284, title III, §302, Apr. 11, 1968, 82 Stat. 78.)

SUBCHAPTER III—JURISDICTION OVER CRIMINAL AND CIVIL ACTIONS

§ 1321. Assumption by State of criminal jurisdiction

(a) Consent of United States

(1) In general

The consent of the United States is hereby given to any State not having jurisdiction over criminal offenses committed by or

against Indians in the areas of Indian country situated within such State to assume, with the consent of the Indian tribe occupying the particular Indian country or part thereof which could be affected by such assumption, such measure of jurisdiction over any or all of such offenses committed within such Indian country or any part thereof as may be determined by such State to the same extent that such State has jurisdiction over any such offense committed elsewhere within the State, and the criminal laws of such State shall have the same force and effect within such Indian country or part thereof as they have elsewhere within that State.

(2) Concurrent jurisdiction

At the request of an Indian tribe, and after consultation with and consent by the Attorney General, the United States shall accept concurrent jurisdiction to prosecute violations of sections 1152 and 1153 of title 18 within the Indian country of the Indian tribe.

(b) Alienation, encumbrance, taxation, and use of property; hunting, trapping, or fishing

Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof.

(Pub. L. 90-284, title IV, §401, Apr. 11, 1968, 82 Stat. 78; Pub. L. 111-211, title II, §221(a), July 29, 2010, 124 Stat. 2271.)

AMENDMENTS

2010—Pub. L. 111-211 substituted “Assumption by State of criminal jurisdiction” for “Assumption by State” in section catchline, inserted subsec. (a) heading, inserted par. (1) designation and heading, and added par. (2). Amendment to section catchline was executed as the probable intent of Congress, notwithstanding directory language which erroneously directed the amendment to subsec. (a).

§ 1322. Assumption by State of civil jurisdiction

(a) Consent of United States; force and effect of civil laws

The consent of the United States is hereby given to any State not having jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country situated within such State to assume, with the consent of the tribe occupying the particular Indian country or part thereof which would be affected by such assumption, such measure of jurisdiction over any or all such civil causes of action arising within such Indian country or any part thereof as may

be determined by such State to the same extent that such State has jurisdiction over other civil causes of action, and those civil laws of such State that are of general application to private persons or private property shall have the same force and effect within such Indian country or part thereof as they have elsewhere within that State.

(b) Alienation, encumbrance, taxation, use, and probate of property

Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute, or with any regulation made pursuant thereto; or shall confer jurisdiction upon the State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein.

(c) Force and effect of tribal ordinances or customs

Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band, or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the State, be given full force and effect in the determination of civil causes of action pursuant to this section.

(Pub. L. 90-284, title IV, §402, Apr. 11, 1968, 82 Stat. 79.)

§ 1323. Retrocession of jurisdiction by State

(a) Acceptance by United States

The United States is authorized to accept a retrocession by any State of all or any measure of the criminal or civil jurisdiction, or both, acquired by such State pursuant to the provisions of section 1162 of title 18, section 1360 of title 28, or section 7 of the Act of August 15, 1953 (67 Stat. 588), as it was in effect prior to its repeal by subsection (b) of this section.

(b) Repeal of statutory provisions

Section 7 of the Act of August 15, 1953 (67 Stat. 588), is hereby repealed, but such repeal shall not affect any cession of jurisdiction made pursuant to such section prior to its repeal.

(Pub. L. 90-284, title IV, §403, Apr. 11, 1968, 82 Stat. 79.)

REFERENCES IN TEXT

Section 7 of the Act of August 15, 1953, referred to in text, is section 7 of act Aug. 15, 1953, ch. 505, 67 Stat. 588, which is set out as a note under section 1360 of Title 28, Judiciary and Judicial Procedure.

EX. ORD. NO. 11435. DESIGNATING SECRETARY OF THE INTERIOR TO ACCEPT RETROCESSION OF JURISDICTION BY STATE

Ex. Ord. No. 11435, Nov. 21, 1968, 33 F.R. 17339, provided:

By virtue of the authority vested in me by section 465 of the Revised Statutes (25 U.S.C. 9) and as President of the United States, the Secretary of the Interior is here-

by designated and empowered to exercise, without the approval, ratification, or other action of the President or of any other officer of the United States, any and all authority conferred upon the United States by Section 403(a) of the Act of April 11, 1968, 82 Stat. 79 (25 U.S.C. 1323(a)): *Provided*, That acceptance of retrocession of all or any measure of civil or criminal jurisdiction, or both, by the Secretary hereunder shall be effected by publication in the FEDERAL REGISTER of a notice which shall specify the jurisdiction retroceded and the effective date of the retrocession: *Provided further*, That acceptance of such retrocession of criminal jurisdiction shall be effected only after consultation by the Secretary with the Attorney General.

LYNDON B. JOHNSON.

§ 1324. Amendment of State constitutions or statutes to remove legal impediment; effective date

Notwithstanding the provisions of any enabling Act for the admission of a State, the consent of the United States is hereby given to the people of any State to amend, where necessary, their State constitution or existing statutes, as the case may be, to remove any legal impediment to the assumption of civil or criminal jurisdiction in accordance with the provisions of this subchapter. The provisions of this subchapter shall not become effective with respect to such assumption of jurisdiction by any such State until the people thereof have appropriately amended their State constitution or statutes, as the case may be.

(Pub. L. 90-284, title IV, §404, Apr. 11, 1968, 82 Stat. 79.)

§ 1325. Abatement of actions

(a) Pending actions or proceedings; effect of cession

No action or proceeding pending before any court or agency of the United States immediately prior to any cession of jurisdiction by the United States pursuant to this subchapter shall abate by reason of that cession. For the purposes of any such action or proceeding, such cession shall take effect on the day following the date of final determination of such action or proceeding.

(b) Criminal actions; effect of cession

No cession made by the United States under this subchapter shall deprive any court of the United States of jurisdiction to hear, determine, render judgment, or impose sentence in any criminal action instituted against any person for any offense committed before the effective date of such cession, if the offense charged in such action was cognizable under any law of the United States at the time of the commission of such offense. For the purposes of any such criminal action, such cession shall take effect on the day following the date of final determination of such action.

(Pub. L. 90-284, title IV, §405, Apr. 11, 1968, 82 Stat. 80.)

§ 1326. Special election

State jurisdiction acquired pursuant to this subchapter with respect to criminal offenses or civil causes of action, or with respect to both, shall be applicable in Indian country only where

the enrolled Indians within the affected area of such Indian country accept such jurisdiction by a majority vote of the adult Indians voting at a special election held for that purpose. The Secretary of the Interior shall call such special election under such rules and regulations as he may prescribe, when requested to do so by the tribal council or other governing body, or by 20 per centum of such enrolled adults.

(Pub. L. 90-284, title IV, §406, Apr. 11, 1968, 82 Stat. 80.)

SUBCHAPTER IV—EMPLOYMENT OF LEGAL COUNSEL

§ 1331. Approval

Notwithstanding any other provision of law, if any application made by an Indian, Indian tribe, Indian council, or any band or group of Indians under any law requiring the approval of the Secretary of the Interior or the Commissioner of Indian Affairs of contracts or agreements relating to the employment of legal counsel (including the choice of counsel and the fixing of fees) by any such Indians, tribe, council, band, or group is neither granted nor denied within ninety days following the making of such application, such approval shall be deemed to have been granted.

(Pub. L. 90-284, title VI, §601, Apr. 11, 1968, 82 Stat. 80.)

SUBCHAPTER V—MATERIALS AND PUBLICATIONS

§ 1341. Authorization of Secretary

(a) Revision of document on “Indian Affairs, Laws and Treaties” and treatise on “Federal Indian Laws”; compilation of official opinions; printing and republication

In order that the constitutional rights of Indians might be fully protected, the Secretary of the Interior is authorized and directed to—

(1) have the document entitled “Indian Affairs, Laws and Treaties” (Senate Document Numbered 319, volumes 1 and 2, Fifty-eighth Congress), revised and extended to include all treaties, laws, Executive orders, and regulations relating to Indian affairs in force on September 1, 1967, and to have such revised document printed at the Government Printing Office;

(2) have revised and republished the treatise entitled “Federal Indian Law”; and

(3) have prepared, to the extent determined by the Secretary of the Interior to be feasible, an accurate compilation of the official opinions, published and unpublished, of the Solicitor of the Department of the Interior relating to Indian affairs rendered by the Solicitor prior to September 1, 1967, and to have such compilation printed as a Government publication at the Government Printing Office.

(b) Current services

With respect to the document entitled “Indian Affairs, Laws and Treaties” as revised and extended in accordance with paragraph (1) of subsection (a) of this section, and the compilation prepared in accordance with paragraph (3) of such subsection, the Secretary of the Interior

shall take such action as may be necessary to keep such document and compilation current on an annual basis.

(c) Authorization of appropriations

There is authorized to be appropriated for carrying out the provisions of this subchapter such sum as may be necessary.

(Pub. L. 90-284, title VII, §701, Apr. 11, 1968, 82 Stat. 80; Pub. L. 93-265, Apr. 12, 1974, 88 Stat. 84.)

AMENDMENTS

1974—Subsec. (c). Pub. L. 93-265 struck out “, with respect to the preparation but not including printing,” before “such sum”.

CHAPTER 16—DISTRIBUTION OF JUDGMENT FUNDS

Sec.	
1401.	Funds appropriated in satisfaction of judgments of Indian Claims Commission or United States Court of Federal Claims.
1402.	Plan for use or distribution of funds.
1403.	Preparation of plan.
1404.	Hearing transcripts and tribal support statements; submission to Congress with plan.
1405.	Effective date of plan; joint resolution of disapproval.
1406.	Rules and regulations.
1407.	Tax exemption; resources exemption limitation.
1408.	Resources exemption.

§ 1401. Funds appropriated in satisfaction of judgments of Indian Claims Commission or United States Court of Federal Claims

(a) Use and distribution

Notwithstanding any other law, all use or distribution of funds appropriated in satisfaction of a judgment of the Indian Claims Commission or the United States Court of Federal Claims in favor of any Indian tribe, band, group, pueblo, or community (hereinafter referred to as “Indian tribe”), together with any investment income earned thereon, after payment of attorney fees and litigation expenses, shall be made pursuant to the provisions of this chapter.

(b) Amounts remaining to be held in trust unless otherwise provided

Except as provided in sections 164 and 165 of this title, amounts which the Secretary of the Interior has remaining after execution of either a plan under this chapter, or another Act enacted heretofore or hereafter providing for the use or distribution of amounts awarded in satisfaction of a judgment in favor of an Indian tribe or tribes, together with any investment income earned thereon and after payment of attorney fees and litigation expenses, shall be held in trust by the Secretary for the tribe or tribes involved if the plan or Act does not otherwise provide for the use of such amounts.

(c) Short title

This chapter may be cited as the “Indian Tribal Judgment Funds Use or Distribution Act”.

(Pub. L. 93-134, §1, Oct. 19, 1973, 87 Stat. 466; Pub. L. 97-164, title I, §160(a)(1), Apr. 2, 1982, 96 Stat. 48; Pub. L. 100-153, §4, Nov. 5, 1987, 101 Stat. 886; Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)